

Assembly Bill No. 1208

Passed the Assembly September 11, 2003

Chief Clerk of the Assembly

Passed the Senate September 9, 2003

Secretary of the Senate

This bill was received by the Governor this _____ day of
_____, 2003, at _____ o'clock __M.

Private Secretary of the Governor

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CHAPTER _____

An act to add Section 1091.4 to the Government Code, relating to conflicts of interest.

LEGISLATIVE COUNSEL'S DIGEST

AB 1208, Cogdill. Conflicts of interest.

Existing law prohibits certain public officials and employees from being financially interested in any contract made by them in their official capacity, or by any board of which they are members. An officer is not deemed to be interested in a contract entered into by a body or board of which the officer is a member if the officer has only a remote interest in the contract and other requirements are met. A remote interest is required to be publicly disclosed, and thereafter the public body may authorize, approve, or ratify the contract in question, but the officer or employee with the remote interest is disqualified from voting.

This bill additionally would define as a remote interest that interest of a person who has a financial interest in a contract, if (1) the person is a board member of a special district serving a population of less than 5,000 that is a landowner voter district, as defined, that does not distribute water for any domestic use, (2) the contract is for either the maintenance or repair of the district's property or facilities, as specified, or the acquisition of property for the district, and meets specified criteria, (3) the person did not participate in the formulation of the contract on behalf of the district, and (4) at a public meeting, the governing body of the district, after review of written documentation, determines that the property acquisition or maintenance and repair services cannot otherwise be obtained at a reasonable price and that the contract is in the best interests of the district, and adopts a resolution stating why the contract is necessary and in the best interests of the district.

This bill also would provide that, if a party to any proceeding challenges any fact or matter required to qualify as a remote interest under these provisions relating to a special district, the district shall bear the burden of proving this fact or matter.



The people of the State of California do enact as follows:

SECTION 1. Section 1091.4 is added to the Government Code, to read:

1091.4. (a) As used in Section 1091, “remote interest” also includes a person who has a financial interest in a contract, if all of the following conditions are met:

(1) The agency of which the person is a board member is a special district serving a population of less than 5,000 that is a landowner voter district, as defined in Section 56050, that does not distribute water for any domestic use.

(2) The contract is for either of the following:

(A) The maintenance or repair of the district’s property or facilities provided that the need for maintenance or repair services has been widely advertised. The contract will result in materially less expense to the district than the expense that would have resulted under reasonably available alternatives and review of those alternatives is documented in records available for public inspection.

(B) The acquisition of property that the governing board of the district has determined is necessary for the district to carry out its functions at a price not exceeding the value of the property, as determined in a record available for public inspection by an appraiser who is a member of a recognized organization of appraisers.

(3) The person did not participate in the formulation of the contract on behalf of the district.

(4) At a public meeting, the governing body of the district, after review of written documentation, determines that the property acquisition or maintenance and repair services cannot otherwise be obtained at a reasonable price, that the contract is in the best interests of the district, and adopts a resolution stating why the contract is necessary and in the best interests of the district.

(b) If a party to any proceeding challenges any fact or matter required by paragraph (2), (3), or (4) of subdivision (a) to qualify as a remote interest under subdivision (a), the district shall bear the burden of proving this fact or matter.



Approved _____, 2003

Governor

